IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.6142 of 2002

Dated: July 5, 2006

Between:

Sri Polamamba Education Society, D.No.7-57/1,
Prashanth Nagar, Old Gajuwaka, Visakhapatnam-26,
Rep. by its General Secretary Smt. Nathi Sushmita,
Wo. NVR Kameswara Rao, aged about 27 years,
R/o. Old Gajuwaka, Visakhapatnam.

… Petitioner

And

Gajuwaka Municipality, rep. by its Commissioner,
Gajuwaka, Visakhapatnam District, and another.

… Respondents

Order:

This writ petition has been filed seeking a Writ of Mandamus to declare the action of the respondents in interfering with the minor repairs being carried on by the petitioner in respect of the premises bearing R.S.No.34, admeasuring 2,250 Sq. yards. Of Gajuwaka village, Visakhapatnam District, as illegal and arbitrary, and a consequential direction is sought to the respondents not to interfere

with the minor repairs and colouring undertaken by the petitioner.

2. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing on behalf of the respondents.

3. The petitioner is a society registered under the Societies Registration Act, 2001. It is the case of the petitioner that it had obtained lease of an extent of 2,250 Sq. yards of land with some sheds consisting of 22 classrooms, from one Sri Palla Mahalaxmi, W/o. Simhachalam and others of Gajuwaka. It is stated that in the said leased premises, the petitioner started some minor repairs to enable it to run the school. The grievance of the petitioner is that though it had obtained the said lease along with the sheds for running upper-primary school and when minor repairs were being undertaken, respondents are interfering with the same. Hence, the present writ petition has been filed.

4. Counter affidavit has been filed by the respondents stating that S.No.34 is declared as the land vested in the Government under Section 2 (A) of the Inam Abolition Act and the orders of the Inams authority have become final. It is stated that the petitioner society has filed this writ petition with false allegations. It is the case of the respondents that under the guise of the interim orders obtained, the petitioner is raising structures illegally.

5. The learned Standing Counsel appearing on behalf of the first respondent-Municipality placed before this Court, photographs which indicate that some new sheds have been constructed by the petitioner in the said land.

6. So far as the averments in the counter affidavit that the said land is vested in the Government, the same is a matter which cannot be

gone into in this writ petition. The specific stand of the respondents is that the work undertaken by the petitioner is not minor repairs, but in the guise of repairs, the petitioner has constructed some new sheds and the same cannot be done without obtaining prior permission from the statutory authority.

7. In that view of the matter, I dispose of the writ petition with the following directions. -

The petitioner shall not undertake any further construction in the land in S.No.34, admeasuring 2,250 Sq. yards, Gajuwaka village, Visakhapatnam District, except by obtaining due permission as required under the provisions of the Andhra Pradesh Municipalities Act 1965 ('the Act' for brevity). If any illegal structures, as contended by the respondents, have been raised, it is open for the respondents to take steps for demolition, by following the procedure as contemplated under the Act or other applicable laws.

8. The writ petition is disposed of with the above directions. No order as costs.

JUSTICE R. SUBHASH REDDY.

July 5, 2006
Note: Office is directed to mark a copy to The Commissioner, Visakhapatnam Municipal Corporation.
B/o
MRR